IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

Writ Petition No. 660 (SS) of 2007

Suresh Chandra Malasi,
S/o Sri Shiv Prasad Malasi,
Assistant Teacher, Junior High School,
Silla, Block – Augustmuni,
District – Rudraprayag. **…….Petitioner.**

Versus

1. State of Uttarakhand, through the Secretary, Education Government of Uttarakhand, Dehradun.
2. Director of Education, School Education, Mayur Vihar Sahastradhara Road, Dehradun.
3. Appar District Education Office (Basic), District – Rudraprayag.

…….Respondents

Hon'ble M.M. Ghildiyal, J.

Heard Sri Pankaj Purohit, learned counsel for the petitioner and learned Brief Holder for the State of Uttarakhand on behalf of respondents.

Learned counsel for both the parties are agree to decide the writ petition at its admission stage itself.

Brief facts of the case as narrated in the writ petition are that petitioner, who is working as Assistant Teacher in Junior High School, has been transferred by respondent no. 3 i.e. Appar District Education Officer (Basic), District – Rudraprayag from Bashti to Silla, vide order dated 06.03.2007. Aforesaid order was passed in pursuance to order issued by respondent no. 2 i.e. Director, School Education, Dehradun. Petitioner joined at new place of posting. The said transfer order has been cancelled by the respondent no. 3 vide order dated 18.05.2007.

Cancellation order was passed in pursuance to Government Orders dated 12.05.2007 and 09.05.2007.

The submission of the learned counsel for the petitioner is that petitioner was working in remote area since long and on his request, time and again, to the department for her transfer, the department after considering the difficulties of petitioner has transferred him vide order dated 06.03.2007.

It is very surprising that the petitioner was working in remote area for last 14 years and has requested for his transfer to some other place. On the request of the petitioner, respondent no. 2 has chosen to transfer the petitioner in the month of December, 2006, when it was known to everybody that Code of Conduct can be implemented in the State of Uttarakhand on any date, in view of general election. Consequently, there was no occasion to transfer the petitioner in the month of December, 2006 and in pursuance to Director's letter, respondent no. 3 transferred the petitioner in the month of March, 2007 knowingly, though he was aware of the fact that annual transfers are made generally in the month of May or June, every year. He could have wait for two months. Considering the difficulty of the petitioner, he could have wait for two or three months and pass order of transfer in the annual arrangement. Later on, the said transfer order has been cancelled.

I decline to interfere with the order 18.05.2007 but considering the fact that petitioner has already joined at new place of posting, it is expected from the respondent authority to consider the case of the petitioner afresh and if authority

concerned can accommodated the petitioner, he/she may accommodate the petitioner at the new place of posting where he has been transfer and joined, in this respect the authority concern shall pass fresh order within a period of two weeks from the date of production of certified copy of this order. Till the decision is taken by the authority concerned, petitioner shall not be disturbed. Petitioner is also directed to place this order before the authority concerned within a period of one week from today.

Copy of the order shall be given to the learned counsel for the petitioner by tomorrow on payment of usual charges.

With this direction, writ petition as well as stay application is disposed of. No order as to costs.

(M.M. Ghildiyal, J.)

June 13, 2007
SKSHARMA